

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 05-cv-329-GKF(PJC)
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

**STATE OF OKLAHOMA’S STATEMENT  
REGARDING MOTIONS *IN LIMINE***

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, J.D. Strong, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA (“State”), and, pursuant to the Court’s directive (*see* Dkt. #2480), respectfully submits its Statement Regarding Motions *in Limine* as follows:

1. None of the State’s motions *in limine* has been rendered moot in its entirety. All of the State’s motions *in limine* raise viable evidentiary issues.
  
2. In light of the Court’s recent denial of the State’s “Motion for Reconsideration of the Court’s July 22, 2009 Opinion and Order,” damages-related issues as raised in the motions *in limine* are presently moot. However, the motions *in limine* are only moot to the extent that they address such damages-related issues. Although some of the State’s motions *in limine* address damages-related issues, such motions also address other non-damages issues. For instance, as part of the State’s “Motion *in Limine* Pertaining to any Alleged Adverse Impact Which May Result If the Relief Sought by the State Is Granted,” the State argues that “the possible economic impact that could result from an award of damages . . . has no conceivable relevance to any claim

or defense in this case . . .” Dkt. #2427 at 6. However, the bulk of that Motion addresses the admissibility of economic harm evidence as it pertains to injunctive relief. *Id.*, *passim*. Plainly, the admissibility of economic harm evidence in the injunctive relief context is not moot.

3. On August 27, 2009, Defendants filed their “Suggestion of Mootness on Parties’ Motions *in Limine*” (“Suggestion of Mootness”) asserting that one of Defendants’ and five of the State’s motions *in limine* have been rendered moot in their entirety by the Court’s recent rulings. *See* Dkt. #2536.<sup>1</sup> However, there is absolutely no basis for Defendants to assert that any of the State’s motions *in limine* is moot in its entirety. The Court recently denied Defendants’ Motion to Strike Jury Demand. *See* Dkt. #2537. Furthermore, the Court has denied nearly all of Defendants’ many motions for summary judgment. *See, e.g.*, Dkt. ##2467 and 2472. The State has viable claims under RCRA, public nuisance, trespass, federal common law nuisance, 27A Okla. Stat. § 2-6-105(A) and 2 Okla. Stat. § 2-18.1. In sum, there is simply no basis to suggest that any of the State’s motions *in limine* has been mooted in its entirety by the Court’s recent rulings.

Respectfully submitted,

W.A. Drew Edmondson OBA # 2628  
ATTORNEY GENERAL  
Kelly H. Burch OBA #17067  
ASSISTANT ATTORNEY GENERAL  
STATE OF OKLAHOMA  
313 N.E. 21<sup>st</sup> St.  
Oklahoma City, OK 73105  
(405) 521-3921

---

<sup>1</sup> The State understood that the Court intended that the parties’ statements would not address motions *in limine* filed by the opposing party(ies). In other words, the statement filed by the State should only address the *State’s* motions *in limine* and the statement filed by Defendants should only address the *Defendants’* motions *in limine*. In this regard, the State believes that Defendants’ Suggestion of Mootness does not comply with the Court’s directive.

M. David Riggs OBA #7583  
Joseph P. Lennart OBA #5371  
Richard T. Garren OBA #3253  
Sharon K. Weaver OBA #19010  
Robert A. Nance OBA #6581  
D. Sharon Gentry OBA #15641  
David P. Page, OBA #6852  
RIGGS, ABNEY, NEAL, TURPEN,  
ORBISON & LEWIS  
502 West Sixth Street  
Tulsa, OK 74119  
(918) 587-3161

/s/ Louis W. Bullock

Louis W. Bullock, OBA #1305  
Robert M. Blakemore, OBA #18656  
BULLOCK BULLOCK & BLAKEMORE  
110 West 7<sup>th</sup> Street, Suite 707  
Tulsa, OK 74119-1031  
(918) 584-2001

Frederick C. Baker (*pro hac vice*)  
Elizabeth Claire Xidis (*pro hac vice*)  
MOTLEY RICE LLC  
28 Bridgeside Boulevard  
Mount Pleasant, SC 29465  
(843) 216-9280

William H. Narwold (*pro hac vice*)  
Ingrid L. Moll (*pro hac vice*)  
Mathew P. Jasinski (*pro hac vice*)  
MOTLEY RICE LLC  
20 Church Street, 17<sup>th</sup> Floor  
Hartford, CT 06103  
(860) 882-1676

Jonathan D. Orent (*pro hac vice*)  
Michael G. Rousseau (*pro hac vice*)  
Fidelma L. Fitzpatrick (*pro hac vice*)  
MOTLEY RICE LLC  
321 South Main Street  
Providence, RI 02940  
(401) 457-7700

**ATTORNEYS FOR PLAINTIFF,  
STATE OF OKLAHOMA**

## CERTIFICATE OF SERVICE

I certify that on the 31st day of August, 2009, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W.A. Drew Edmondson, Attorney General [fc\\_docket@oag.ok.gov](mailto:fc_docket@oag.ok.gov)  
Kelly Hunter Burch, Assistant Atty General [kelly.burch@oag.ok.gov](mailto:kelly.burch@oag.ok.gov)  
**OFFICE OF THE ATTORNEY GENERAL , STATE OF OKLAHOMA**

M. David Riggs [driggs@riggsabney.com](mailto:driggs@riggsabney.com)  
Joseph P. Lennart [jlennart@riggsabney.com](mailto:jlennart@riggsabney.com)  
Richard T. Garren [rgarren@riggsabney.com](mailto:rgarren@riggsabney.com)  
Sharon K. Weaver [sweaver@riggsabney.com](mailto:sweaver@riggsabney.com)  
Robert A. Nance [rnance@riggsabney.com](mailto:rnance@riggsabney.com)  
D. Sharon Gentry [sgentry@riggsabney.com](mailto:sgentry@riggsabney.com)  
David P. Page [dpage@riggsabney.com](mailto:dpage@riggsabney.com)  
**RIGGS ABNEY NEAL TURPEN ORBISON & LEWIS**

Louis W. Bullock [lbullock@bullock-blakemore.com](mailto:lbullock@bullock-blakemore.com)  
Robert M. Blakemore [bblakemore@bullock-blakemore.com](mailto:bblakemore@bullock-blakemore.com)  
**BULLOCK BULLOCK & BLAKEMORE**

Frederick C. Baker [fbaker@motleyrice.com](mailto:fbaker@motleyrice.com)  
Elizabeth Claire Xidis [cxidis@motleyrice.com](mailto:cxidis@motleyrice.com)  
William H. Narwold [bnarwold@motleyrice.com](mailto:bnarwold@motleyrice.com)  
Ingrid L. Moll [imoll@motleyrice.com](mailto:imoll@motleyrice.com)  
Mathew P. Jasinski [mjasinski@motleyrice.com](mailto:mjasinski@motleyrice.com)  
Jonathan D. Orent [jorent@motleyrice.com](mailto:jorent@motleyrice.com)  
Michael G. Rousseau [mrousseau@motleyrice.com](mailto:mrousseau@motleyrice.com)  
Fidelma L. Fitzpatrick [ffitzpatrick@motleyrice.com](mailto:ffitzpatrick@motleyrice.com)  
**MOTLEY RICE, LLC**  
**COUNSEL FOR PLAINTIFF, STATE OF OKLAHOMA**

William D. Perrine [wperrine@pmrlaw.net](mailto:wperrine@pmrlaw.net)  
Robert P. Redemann [redemann@pmrlaw.net](mailto:redemann@pmrlaw.net)  
David C. Senger [david@cgmlawok.com](mailto:david@cgmlawok.com)  
**PERRINE, McGIVERN, REDEMANN, REID, BERRY & TAYLOR, PLLC**

Robert E. Sanders [rsanders@youngwilliams.com](mailto:rsanders@youngwilliams.com)  
E. Stephen Williams [steve.williams@youngwilliams.com](mailto:steve.williams@youngwilliams.com)  
**YOUNG WILLIAMS**  
**COUNSEL FOR DEFENDANT CAL-MAINE FOODS, INC. AND CAL-MAINE FARMS, INC.**

John H. Tucker [jtucker@rhodesokla.com](mailto:jtucker@rhodesokla.com)  
Kerry R. Lewis [klewis@rhodesokla.com](mailto:klewis@rhodesokla.com)  
Colin H. Tucker [chtucker@rhodesokla.com](mailto:chtucker@rhodesokla.com)  
Theresa Noble Hill [thill@rhodesokla.com](mailto:thill@rhodesokla.com)  
**RHODES, HIERONYMUS, JONES, TUCKER &**

**GABLE**

Terry W. West  
**THE WEST LAW FIRM**

[terry@thewestlawfirm.com](mailto:terry@thewestlawfirm.com)

Delmar R. Ehrich  
Bruce Jones  
Krisann C. Kleibacker Lee  
Todd P. Walker  
Christopher H. Dolan  
Melissa C. Collins  
Colin C. Deihl  
Randall E. Kahnke

[dehrich@faegre.com](mailto:dehrich@faegre.com)  
[bjones@faegre.com](mailto:bjones@faegre.com)  
[kklee@faegre.com](mailto:kklee@faegre.com)  
[twalker@faegre.com](mailto:twalker@faegre.com)  
[cdolan@faegre.com](mailto:cdolan@faegre.com)  
[mcollins@faegre.com](mailto:mcollins@faegre.com)  
[cdeihl@faegre.com](mailto:cdeihl@faegre.com)  
[rkahnke@faegre.com](mailto:rkahnke@faegre.com)

**FAEGRE & BENSON LLP**

**COUNSEL FOR DEFENDANT CARGILL, INC. and CARGILL TURKEY PRODUCTION, LLC**

George W. Owens  
Randall E. Rose  
**OWENS LAW FIRM, P.C.**

[gwo@owenslawfirm.com](mailto:gwo@owenslawfirm.com)  
[rer@owenslawfirm.com](mailto:rer@owenslawfirm.com)

James M. Graves  
Gary V. Weeks  
Woody Bassett  
K.C. Dupps Tucker  
Earl Lee "Buddy" Chadick  
Vincent O. Chadick

[jgraves@bassettlawfirm.com](mailto:jgraves@bassettlawfirm.com)  
[gweeks@bassettlawfirm.com](mailto:gweeks@bassettlawfirm.com)  
[wbassett@bassettlawfirm.com](mailto:wbassett@bassettlawfirm.com)  
[kctucker@bassettlawfirm.com](mailto:kctucker@bassettlawfirm.com)  
[bchadick@bassettlawfirm.com](mailto:bchadick@bassettlawfirm.com)  
[vchadick@bassettlawfirm.com](mailto:vchadick@bassettlawfirm.com)

**BASSETT LAW FIRM**

**COUNSEL FOR DEFENDANT GEORGE'S INC. AND GEORGE'S FARMS, INC.**

A. Scott McDaniel  
Nicole Longwell  
Philip D. Hixon  
Craig A. Mirkes  
**McDANIEL HIXON LONGWELL & ACORD, PLLC**

[smcdaniel@mhla-law.com](mailto:smcdaniel@mhla-law.com)  
[nlongwell@mhla-law.com](mailto:nlongwell@mhla-law.com)  
[phixon@mhla-law.com](mailto:phixon@mhla-law.com)  
[cmirkes@mhla-law.com](mailto:cmirkes@mhla-law.com)

Sherry P. Bartley  
**MITCHELL, WILLIAMS, SELIG, GATES & WOODYARD, PLLC**  
**COUNSEL FOR DEFENDANT PETERSON FARMS, INC.**

[sbartley@mwschw.com](mailto:sbartley@mwschw.com)

John R. Elrod  
Vicki Bronson  
P. Joshua Wisley  
Bruce W. Freeman  
D. Richard Funk  
**CONNER & WINTERS, LLP**  
**COUNSEL FOR DEFENDANT SIMMONS FOODS, INC.**

[jelrod@cwlaw.com](mailto:jelrod@cwlaw.com)  
[vbronson@cwlaw.com](mailto:vbronson@cwlaw.com)  
[jwisley@cwlaw.com](mailto:jwisley@cwlaw.com)  
[bfreeman@cwlaw.com](mailto:bfreeman@cwlaw.com)  
[rfunk@cwlaw.com](mailto:rfunk@cwlaw.com)

Robert W. George  
L. Bryan Burns

[robert.george@tyson.com](mailto:robert.george@tyson.com)  
[bryan.burns@tyson.com](mailto:bryan.burns@tyson.com)

Timothy T. Jones  
**TYSON FOODS INC**

[tim.jones@tyson.com](mailto:tim.jones@tyson.com)

Michael R. Bond  
Erin W. Thompson  
Dustin Darst  
**KUTAK ROCK LLP**

[michael.bond@kutakrock.com](mailto:michael.bond@kutakrock.com)  
[erin.thompson@kutakrock.com](mailto:erin.thompson@kutakrock.com)  
[dustin.darst@kutakrock.com](mailto:dustin.darst@kutakrock.com)

Stephen Jantzen  
Paula Buchwald  
Patrick M. Ryan  
**RYAN, WHALEY & COLDIRON**

[sjantzen@ryanwhaley.com](mailto:sjantzen@ryanwhaley.com)  
[pbuchwald@ryanwhaley.com](mailto:pbuchwald@ryanwhaley.com)  
[pryan@ryanwhaley.com](mailto:pryan@ryanwhaley.com)

Thomas C. Green  
Mark D. Hopson  
Timothy Webster  
Jay T. Jorgensen  
Gordon D. Todd  
Erik J. Ives

[tcgreen@sidley.com](mailto:tcgreen@sidley.com)  
[mhopson@sidley.com](mailto:mhopson@sidley.com)  
[twebster@sidley.com](mailto:twebster@sidley.com)  
[jjorgensen@sidley.com](mailto:jjorgensen@sidley.com)  
[gtodd@sidley.com](mailto:gtodd@sidley.com)  
[eives@sidley.com](mailto:eives@sidley.com)

**SIDLEY AUSTIN LLP**  
**COUNSEL FOR DEFENDANTS TYSON FOODS, INC., TYSON POULTRY, INC., TYSON CHICKEN, INC., and COBB-VANTRESS, INC.**

R. Thomas Lay  
**KERR, IRVINE, RHODES & ABLES**

[rtl@kiralaw.com](mailto:rtl@kiralaw.com)

Jennifer S. Griffin  
David Brown  
Frank M. Evans III  
**LATHROP & GAGE, L.C.**

[jgriffin@lathropgage.com](mailto:jgriffin@lathropgage.com)  
[dbrown@lathropgage.com](mailto:dbrown@lathropgage.com)  
[fevans@lathropgage.com](mailto:fevans@lathropgage.com)

**COUNSEL FOR DEFENDANT WILLOW BROOK FOODS, INC.**

Robin S. Conrad  
**NATIONAL CHAMBER LITIGATION CENTER**

[rconrad@uschamber.com](mailto:rconrad@uschamber.com)

Gary S. Chilton  
**HOLLADAY, CHILTON AND DEGIUSTI, PLLC**  
**COUNSEL FOR US CHAMBER OF COMMERCE AND AMERICAN TORT REFORM ASSOCIATION**

[gchilton@hcdattorneys.com](mailto:gchilton@hcdattorneys.com)

D. Kenyon Williams, jr.  
Michael D. Graves  
**HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON**  
**COUNSEL FOR POULTRY GROWERS / INTERESTED PARTIES / POULTRY PARTNERS, INC.**

[kwilliams@hallestill.com](mailto:kwilliams@hallestill.com)  
[mgraves@hallestill.com](mailto:mgraves@hallestill.com)

Richard Ford  
LeAnne Burnett  
**CROWE & DUNLEVY**  
**COUNSEL FOR OKLAHOMA FARM BUREAU, INC.**

[richard.ford@crowedunlevy.com](mailto:richard.ford@crowedunlevy.com)  
[leanne.burnett@crowedunlevy.com](mailto:leanne.burnett@crowedunlevy.com)

Kendra A. Jones, Assistant Attorney General  
Charles L. Moulton, Sr. Ass't AG  
**OFFICE OF THE ATTORNEY GENERAL, STATE OF  
ARKANSAS  
COUNSEL FOR STATE OF ARKANSAS**

[kendra.jones@arkansasag.gov](mailto:kendra.jones@arkansasag.gov)  
[charles.moulton@arkansasag.gov](mailto:charles.moulton@arkansasag.gov)

Mia Vahlberg  
**GABLE GOTWALS**

[mvahlberg@gablelaw.com](mailto:mvahlberg@gablelaw.com)

James T. Banks  
Adam J. Siegel  
**HOGAN & HARTSON  
COUNSEL FOR NATIONAL CHICKEN COUNCIL, U.S. POULTRY & EGG ASS'N AND  
NATIONAL TURKEY FEDERATION**

[jtbanks@hhlaw.com](mailto:jtbanks@hhlaw.com)  
[ajsiegel@hhlaw.com](mailto:ajsiegel@hhlaw.com)

John D. Russell  
William A. Waddell, Jr.  
David E. Choate  
**FELLERS SNIDER BLANKENSHIP BAILEY &  
TIPPENS P.C.  
COUNSEL FOR ARKANSAS FARM BUREAU FEDERATION**

[jrussell@fellerssnider.com](mailto:jrussell@fellerssnider.com)  
[waddell@fec.net](mailto:waddell@fec.net)  
[dchoate@fec.net](mailto:dchoate@fec.net)

Barry G. Reynolds  
Jessica E. Rainey  
**TITUS HILLIS REYNOLDS LOVE DICKMAN &  
McCALMON**

[reynolds@titushillis.com](mailto:reynolds@titushillis.com)  
[jrainey@titushillis.com](mailto:jrainey@titushillis.com)

William S. Cox III  
Nikaa B. Jordan  
**LIGHTFOOT FRANKLIN & WHITE LLC  
COUNSEL FOR AMERICAN FARM BUREAU FEDERATION and NATIONAL  
CATTLEMEN'S BEEF ASSOCIATION, AMICUS CURIAE**

[wcox@lightfootlaw.com](mailto:wcox@lightfootlaw.com)  
[njordan@lightfootlaw.com](mailto:njordan@lightfootlaw.com)

Richard Mullins  
**McAFEE & TAFT PC  
COUNSEL FOR TEXAS FARM BUREAU, TEXAS CATTLE FEEDERS ASSN, TEXAS PORK  
PRODUCERS ASSN, AND TEXAS ASSN OF DAIRYMEN**

[richard.mullins@mcafeetaft.com](mailto:richard.mullins@mcafeetaft.com)

/s/ Louis W. Bullock  
\_\_\_\_\_  
Louis W. Bullock